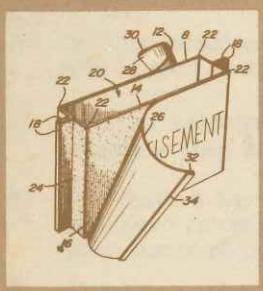
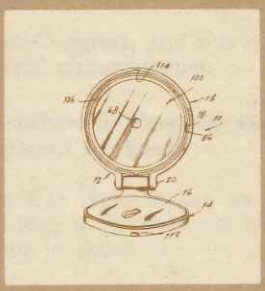
Q&A

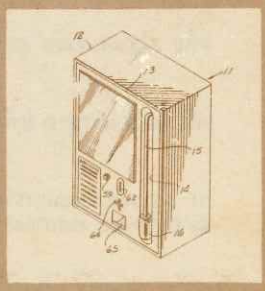
ABOUT

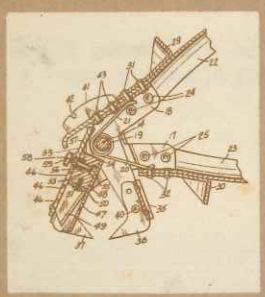
PATENTS

DEPARTMENT OF COMMERCE
UNITED STATES OF AMERICA

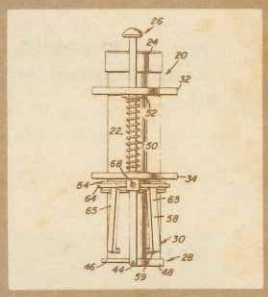


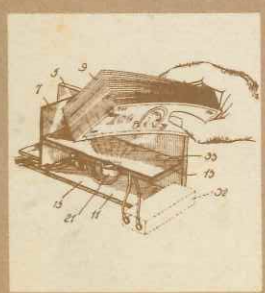


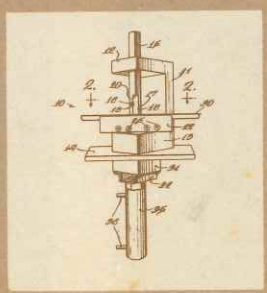


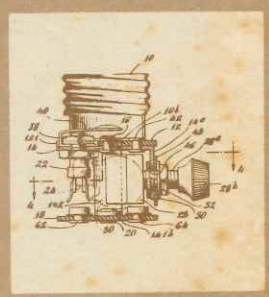


ANSWERS
TO QUESTIONS
FREQUENTLY
ASKED ABOUT
PATENTS









Answers to Questions Frequently Asked About Patents

Reprinted September 1978

Nature and Duration of Patents

1. *Q.* **What is a patent?**

   A. A patent is a grant issued by the United States Government giving an inventor the right to exclude all others from making, using, or selling his invention within the United States, its territories and possessions.

2. *Q.* **For how long a term of years is a patent granted?**

   A. Seventeen years from the date on which it is issued; except for patents on ornamental designs, which are granted for terms of 3½, 7, or 14 years.

3. *Q.* **May the term of a patent be extended?**

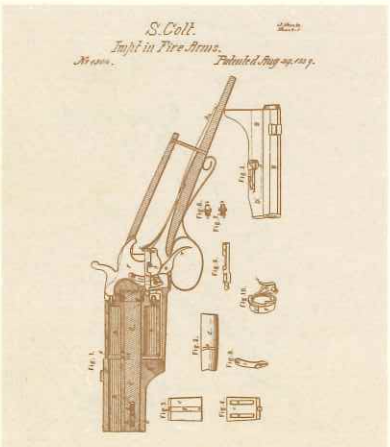
   A. Only by special act of Congress, and this occurs very rarely and only in most exceptional circumstances.

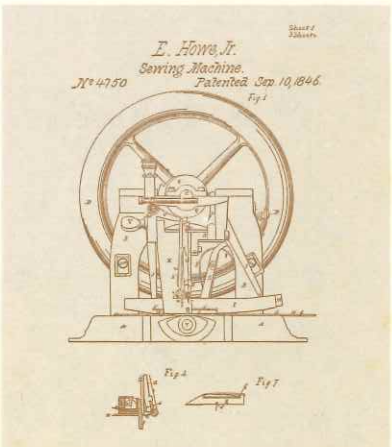
4. *Q.* **Does the patentee continue to have any control over use of the invention after his patent expires?**

   A. No. Anyone has the free right to use an invention covered in an expired patent, so long as he does not use features covered in other unexpired patents in doing so.

5. *Q.* **On what subject matter may a patent be granted?**

   A. A patent may be granted to the inventor or discoverer of any new and useful process, machine, manufacture, or composition of





matter, or any new and useful improvement thereof, or on any distinct and new variety of plant, other than a tuber-propagated plant, which is asexually reproduced, or on any new, original, and ornamental design for an article of manufacture.

6. *Q.* **On what subject matter may a patent not be granted?**

A. A patent may not be granted on a useless device, on printed matter, on a method of doing business, on an improvement in a device which would be obvious to a person skilled in the art, or on a machine which will not operate, particularly on an alleged perpetual motion machine.

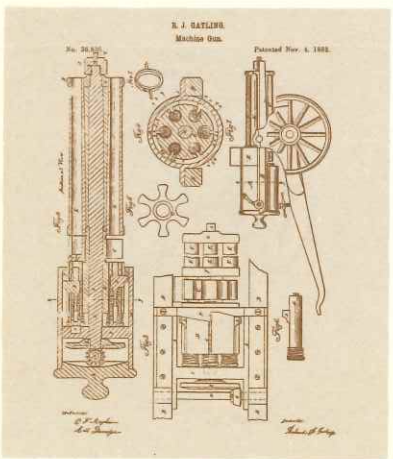
Meaning of Words "Patent Pending"

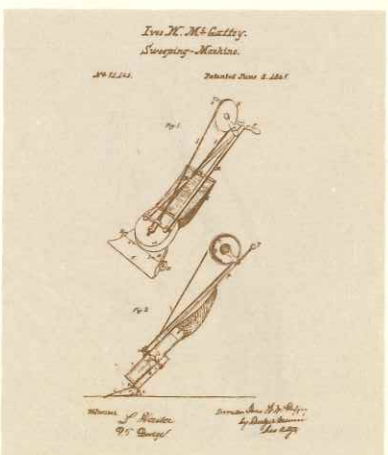
7. *Q.* **What do the terms "patent pending" and "patent applied for" mean?**

A. They are used by a manufacturer or seller of an article to inform the public that an application for patent on that article is on file in the Patent and Trademark Office. The law imposes a fine on those who use these terms falsely to deceive the public.

Patent Applications

8. *Q.* **I have made some changes and improvements in my invention after my patent application was filed in the Patent and Trademark Office. May I amend my patent application by adding description or illustration of these features?**





A. No. The law specifically provides that new matter shall not be introduced into the disclosure of a patent application. However, you should call the attention of your attorney or agent promptly to any such changes you may make or plan to make, so that he may take or recommend any steps that may be necessary for your protection.

9. *Q.* **How does one apply for a patent?**

A. By making the proper application to the Commissioner of Patents and Trademarks, Washington, D.C., 20231.

0. *Q.* **What is the best way to prepare an application?**

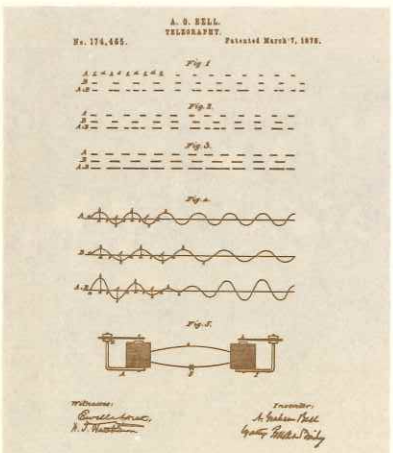
A. As the preparation and prosecution of an application are highly complex proceedings they should preferably be conducted by an attorney trained in this specialized practice. The Patent and Trademark Office therefore advises inventors to employ a patent attorney or agent who is registered in the Patent and Trademark Office. No attorney or agent not registered in the Patent and Trademark Office may prosecute applications. The pamphlet entitled *Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office,* contains an alphabetical and geographical list of persons on the Patent and Trademark Office Register.

See Question 40 for source and price.

11. *Q.* **Of what does a patent application consist?**

A. An application fee, a petition, a specification and claims describing and defining the invention, an oath or declaration, and a drawing if the invention can be illustrated.

12. *Q.* **What are the Patent and Trademark Office fees in connection with filing of an application for patent and issuance of the patent?**


A. G. BELL.
TELEGRAPHY.
No. 174,465. Patented March 7, 1876.
Fig. 1
Fig. 2
Fig. 3
Fig. 4
Fig. 5
Witnesses:
Inventor:

A. A filing fee of $65 plus certain additional charges for claims depending on their number and the manner of their presentation are required when the application is filed. A final or issue fee of $100 plus certain printing charges are also required if the patent is to be granted. This final fee is not required until your application is allowed by the Patent and Trademark Office.

13. *Q.* **Are models required as part of the application?**

A. Only in the most exceptional cases. The Office has the power to require that a model be furnished, but rarely exercises it.

14. *Q.* **Is it necessary to go to the Patent and Trademark Office in Washington to transact business concerning patent matters?**

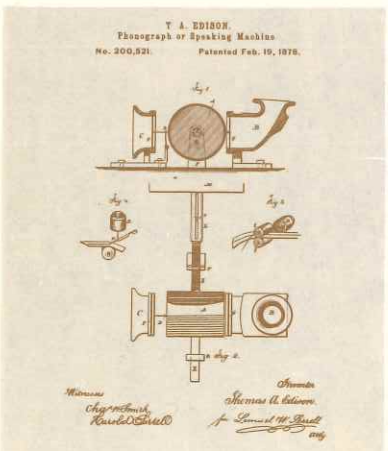
A. No; most business with the Patent and Trademark Office is conducted by correspondence. Interviews regarding pending applications can be arranged with examiners if necessary, however, and are often helpful.

15. *Q.* **Can the Patent and Trademark Office give advice as to whether an inventor should apply for a patent?**

A. No. It can only consider the patentability of an invention when this question comes regularly before it in the form of a patent application.

16. *Q.* **Is there any danger that the Patent and Trademark Office will give others information contained in my application while it is pending?**

A. No. All patent applications are maintained in the strictest secrecy until the patent is issued. After the patent is issued,


T. A. EDISON.
Phonograph or Speaking Machine
No. 200,521. Patented Feb. 19, 1878.

however, the Patent and Trademark Office file containing the application and all correspondence leading up to issuance of the patent is made available in the Patent Search Room for inspection by anyone, and copies of these files may be purchased from the Patent and Trademark Office.

17. *Q.* **May I write to the Patent and Trademark Office directly about my application after it is filed?**

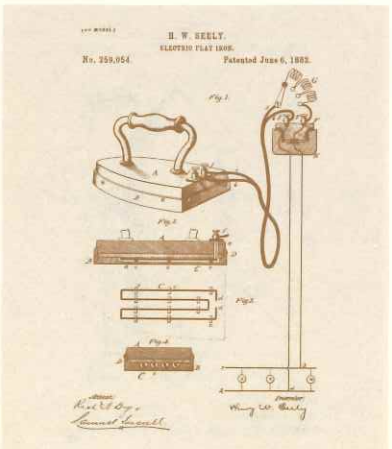
A. The Patent and Trademark Office will answer an applicant's inquiries as to the status of the application, and inform him whether his application has been rejected, allowed, or is awaiting action by the Patent and Trademark Office. However, if you have a patent attorney or agent the Patent and Trademark Office cannot correspond with both you and the attorney concerning the merits of your application. All comments concerning your invention should be forwarded through your patent attorney or agent.

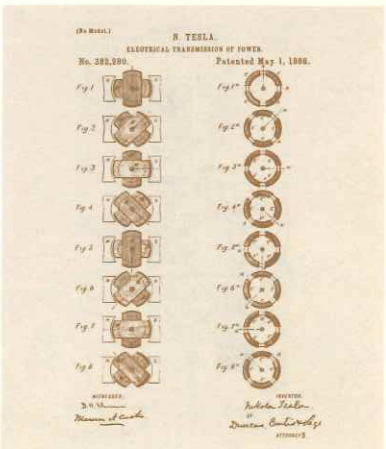
18. *Q.* **What happens when two inventors apply separately for a patent for the same invention?**

A. An "interference" is declared and testimony may be submitted to the Patent and Trademark Office to determine which inventor is entitled to the patent. Your attorney or agent can give you further information about this if it becomes necessary.

19. *Q.* **Can the period allowed by the Patent and Trademark Office for response to an office action in a pending application be extended?**

A. No. This time period required by the examiner cannot be extended, but it may be reduced to not less than thirty days.





The application will become abandoned unless proper response is received in the Patent and Trademark Office within the time allowed.

20. *Q.* **May applications be examined out of their regular order?**

A. No; all applications are examined in the order in which they are filed, except under certain very special conditions.

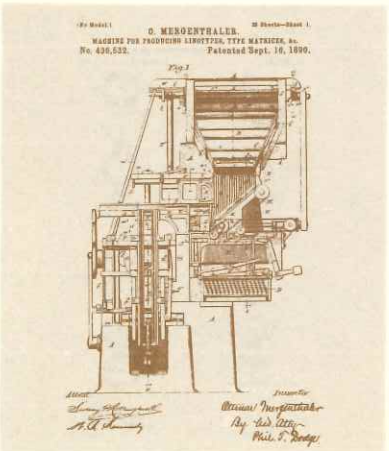
When To Apply for Patent

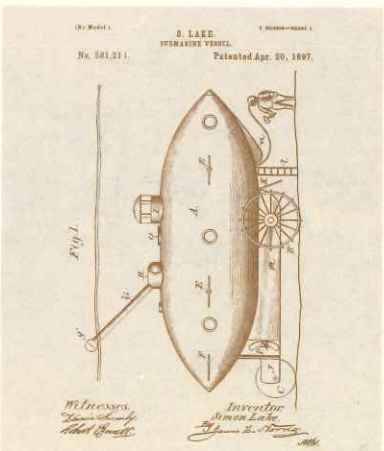
21. *Q.* **I have been making and selling my invention for the past 13 months and have not filed any patent application. Is it too late for me to apply for patent?**

A. Yes. A valid patent may not be obtained if the invention was in public use or on sale in this country for more than one year prior to the filing of your patent application. Your own use and sale of the invention for more than a year before your application is filed will bar your right to a patent just as effectively as though this use and sale had been done by someone else.

22. *Q.* **I published an article describing my invention in a magazine 13 months ago. Is it too late to apply for patent?**

A. Yes. The fact that you are the author of the article will not save your patent application. The law provides that the inventor is not entitled to a patent if the invention has been described in a printed publication anywhere in the world more than a year before his patent application is filed.





Who May Obtain a Patent

23. *Q.* **Is there any restriction as to persons who may obtain a United States patent?**

A. No. Any inventor may obtain a patent regardless of age or sex, by complying with the provisions of the law. A foreign citizen may obtain a patent under exactly the same conditions as a United States citizen.

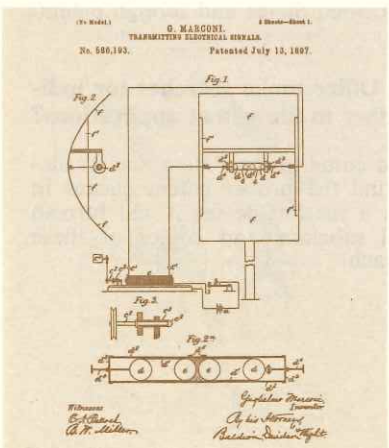
24. *Q.* **If two or more persons work together to make an invention, to whom will the patent be granted?**

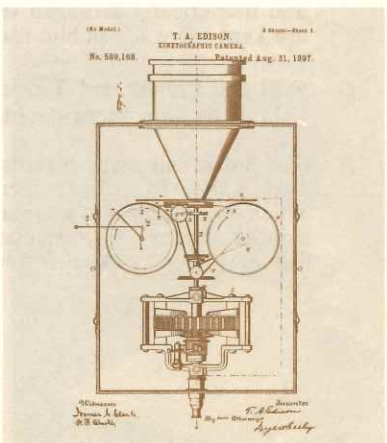
A. If each had a share in the ideas forming the invention, they are joint inventors and a patent will be issued to them jointly on the basis of a proper patent application filed by them jointly. If on the other hand one of these persons has provided all of the ideas of the invention, and the other has only followed instructions in making it, the person who contributed the ideas is the sole inventor and the patent application and patent should be in his name alone.

25. *Q.* **If one person furnishes all of the ideas to make an invention and another employs him or furnishes the money for building and testing the invention, should the patent application be filed by them jointly?**

A. No. The application must be signed, executed, sworn to, and filed in the Patent and Trademark Office, in the name of the true inventor. This is the person who furnishes the ideas, not the employer or the person who furnishes the money.

26. *Q.* **May a patent be granted if an inventor dies before filing his application?**


G. MARCONI.
TRANSMITTING ELECTRICAL SIGNALS.
No. 586,193. Patented July 13, 1897.


T. A. EDISON.
KINETOGRAPHIC CAMERA.
No. 589,168. Patented Aug. 31, 1897.

A. Yes; the application may be filed by the inventor's executor or administrator.

27. *Q.* **While in England this summer, I found an article on sale which was very ingenious and has not been introduced into the United States or patented or described. May I obtain a United States patent on this invention?**

A. No. A United States patent may be obtained only by the true inventor, not by someone who learns of an invention of another.

Ownership and Sale of Patent Rights

28. *Q.* **May the inventor sell or otherwise transfer his right to his patent or patent application to someone else?**

A. Yes. He may sell all or any part of his interest in the patent application or patent to anyone by a properly worded assignment. The application must be filed in the Patent and Trademark Office as the invention of the true inventor, however, and not as the invention of the person who has purchased the invention from him.

29. *Q.* **Is it advisable to conduct a search of patents and other records before applying for a patent?**

A. Yes; if it is found that the device is shown in some prior patent it is useless to make application. By making a search beforehand the expense involved in filing a needless application is often saved.

Patent Searching

30. *Q.* **Where can a search be conducted?**

A. In the Seach Room of the Patent and Trademark Office at Crystal Plaza, 2021 Jefferson Davis Hwy., Arlington, Virginia. Classified and numerically arranged sets of United States and foreign patents are kept there for public use.

31. *Q.* **Will the Patent and Trademark Office make searches for individuals to help them decide whether to file patent applications?**

A. No. But it will assist inventors who come to the Patent and Trademark Office by helping them to find the proper patent classes in which to make their searches. For a reasonable fee it will furnish lists of patents in any class and subclass, and copies of these lists may be purchased for $1.00 each.

Technical Knowledge Available From Patents

32. *Q.* **I have not made an invention but have encountered a problem. Can I obtain knowledge through patents of what has been done by others to solve the problem?**

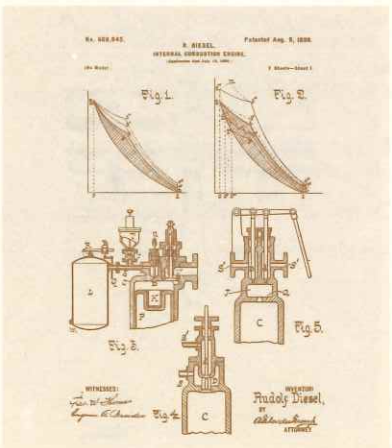
A. The patents in the Patent Search Room contain a vast wealth of technical information and suggestions, organized in a manner which will enable you to review those most closely related to your field of interest. You may come to Arlington and review these patents, or engage a patent practitioner to do this for you and to send you copies of the patents most closely related to your problem.

33. *Q.* **Can I make a search or obtain technical information from patents at locations other than the Patent Search Room?**

A. Yes. The libraries listed on page 14 have sets of patent copies numerically arranged in bound volumes, and these patents may be used for search or other information purposes as discussed in the answer to Question 34.

34. *Q.* **How can technical information be found in a library collection of patents arranged in bound volumes in numerical order?**

A. You must first find out from the *Manual of Classification* in the library the Patent classes and subclasses which cover the field of your invention or interest. You can then, by referring to microfilm reels or volumes of the *Index of Patents* in the library identify the patents in these subclasses and, thence, look at them in the bound volumes. Further information on this subject may be found



in the leaflet *Obtaining Information from Patents* a copy of which may be requested from the Patent and Trademark Office.

Infringement of Others' Patents

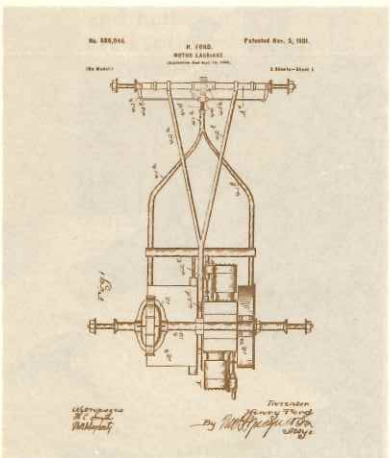
35. *Q.* **If I obtain a patent on my invention will that protect me against the claims of others who assert that I am infringing their patents when I make, use, or sell my own invention?**

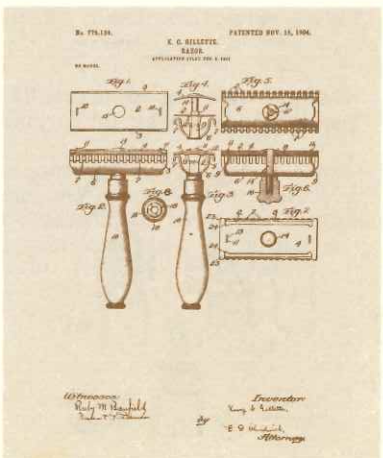
A. No. There may be a patent of a more basic nature on which your invention is an improvement. If your invention is a detailed refinement or feature of such a basically protected invention, you may not use it without the consent of the patentee, just as no one will have the right to use your patented improvement without your consent. You should seek competent legal advice before starting to make or sell or use your invention commercially, even though it is protected by a patent granted to you.

Enforcement of Patent Rights

36. *Q.* **Will the Patent and Trademark Office help me to prosecute others if they infringe the rights granted to me by my patent?**

A. No. The Patent and Trademark Office has no jurisdiction over questions relating to the infringement of patent rights. If your patent is infringed you may sue the infringer in the appropriate United States court at your own expense.





Patent Protection in Foreign Countries

37. *Q.* **Does a United States patent give protection in foreign countries?**

A. No. The United States patent protects your invention only in this country. If you wish to protect your invention in foreign countries, you must file an application in the Patent Office of each such country within the time permitted by law. This may be quite expensive, both because of the cost of filing and prosecuting the individual patent applications, and because of the fact that most foreign countries require payment of taxes to maintain the patents in force. You should inquire of your practitioner about these costs before you decide to file in foreign countries.

How To Obtain Further Information

38. *Q.* **How does one obtain information as to patent applications, fees, and other details concerning patents?**

A. By ordering a pamplet entitled *General Information Concerning Patents.* See Question 40 for sources and price.

39. *Q.* **How can I obtain information about the steps I should take in deciding whether to try to obtain a patent, in securing the best possible patent protection, and in developing and marketing my invention successfully?**

A. By ordering a pamphlet entitled *Patents and Inventions—An Information Aid to Inventors.* See Question 40 for source and price.

40. *Q.* **How can I obtain copies of the pamphlets mentioned in the answers to Questions 10, 38, and 39.**

A. These pamphlets may be purchased from the Superintendent of Documents, Washington, D. C., 20402, or through any District Office of the U.S. Department of Commerce. *The prices are subject to change without notice:*

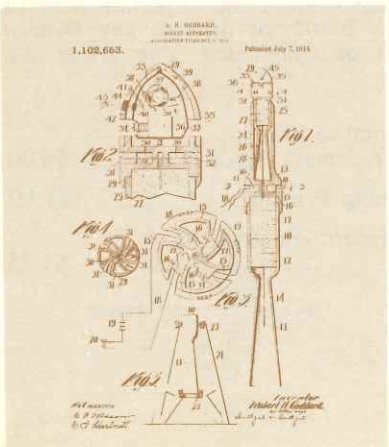
Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office	$5.00
General Information Concerning Patents	$1.80
Patents and Inventions—An Information Aid to Inventors	$1.75

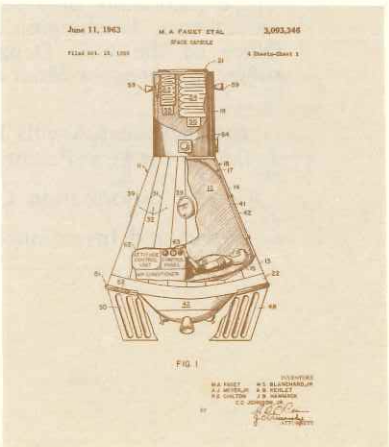
Locations of libraries which have printed copies of U.S. patents arranged in numerical order.

Albany, N. Y.	University of State of New York
Atlanta, Ga.	Georgia Tech Library*
Birmingham, Ala.	Public Library
Boston, Mass.	Public Library
Buffalo, N. Y.	Buffalo and Erie County Public Library
Chicago, Ill.	Public Library
Cincinnati, Ohio	Public Library
Cleveland, Ohio	Public Library
Columbus, Ohio	Ohio State University Library
Dallas, Texas	Public Library
Denver, Co.	Public Library
Detroit, Mich.	Public Library
Houston, Texas	Fondren Library
Kansas City, Mo.	Linda Hall Library*
Lincoln, Nebraska	Love Library
Los Angeles, Calif.	Public Library
Madison, Wis.	State Historical Society of Wisconsin
Milwaukee, Wis.	Public Library
Newark, N. J.	Public Library
New York, N. Y.	Public Library
Philadelphia, Pa.	Franklin Institute
Pittsburg, Pa.	Carnegie Library
Providence, R. I.	Public Library
Seattle, Wa.	University of Washington Engineering Library
St. Louis, Mo.	Public Library
Stillwater, Ok.	Oklahoma A. & M. College Library
Sunnyvale, Ca.	Public Library**
Toledo, Ohio	Public Library

*Collection incomplete

**Arranged by subject matter, collection dates from January 2, 1962.





U.S. DEPARTMENT OF COMMERCE—FIELD OFFICES

ALBUQUERQUE, N. MEXICO 87101
U.S. Courthouse, Room 316

ANCHORAGE, ALASKA 99501
412 Hill Bldg., 632 Sixth Avenue

ATLANTA, GEORGIA 30309
1401 Peachtree St., N.E.

BALTIMORE, MARYLAND 21202
415 U.S. Customhouse
Gay and Lombard Streets

BIRMINGHAM, ALABAMA 35205
Suite 200-201, 908 South 20th St.

BOSTON, MASSACHUSETTS 02116
10th Floor, 441 Stuart St.

BUFFALO, NEW YORK 14203
910 Federal Building
111 W. Huron Street

CHARLESTON, SO. CAROLINA 29403
Federal Building—Suite 631
334 Meeting Street

CHARLESTON, W. VIRGINIA 25301
3000 New Federal Office Bldg.
500 Quarrier Street

CHEYENNE, WYOMING 82001
6022 O'Mahoney Federal Center
2120 Capitol Avenue

CHICAGO, ILLINOIS 60603
1406 Mid Continental Plaza Bldg.
55 East Monroe Street

CINCINNATI, OHIO 45202
8028 Federal Office Building
550 Main Street

CLEVELAND, OHIO 44114
Room 600
666 Euclid Avenue

DALLAS, TEXAS 75202
Room 3E 7, 1100 Commerce St.

DENVER, COLORADO 80202
Room 161, New Customhouse
19th and Stout Streets

DES MOINES, IOWA 50309
609 Federal Building
210 Walnut Street

DETROIT, MICHIGAN 48226
445 Federal Building

GREENSBORO, NO. CAROLINA 27402
258 Federal Building
West Market Street
P.O. Box 1950

HARTFORD, CONNECTICUT 06103
450 Main Street

HONOLULU, HAWAII 96813
286 Alexander Young Building
1015 Bishop Street

HOUSTON, TEXAS 77002
1017 Old Federal Building
201 Fannin Street

JACKSONVILLE, FLORIDA 32207
Suite 129
4080 Woodcock Drive

KANSAS CITY, MISSOURI 64106
Room 1840, 601 East 12th St.

LOS ANGELES, CALIFORNIA 90024
11201 Federal Building
11000 Wilshire Blvd.

MEMPHIS, TENNESSEE 38103
710 Home Federal Building
147 Jefferson Avenue

MIAMI, FLORIDA 33130
Rm. 821, City National Bank Bldg.
25 West Flagler Street

MILWAUKEE, WISCONSIN 53203
Straus Building
238 West Wisconsin Avenue

MINNEAPOLIS, MINNESOTA 55401
306 Federal Building
110 South Fourth Street

NEWARK, NEW JERSEY 07102
Suite 533, 24 Commerce St.

NEW ORLEANS, LOUISIANA 70130
909 Federal Office Bldg., South
610 South Street

NEW YORK, NEW YORK 10007
41st Floor, Federal Office Bldg.
26 Federal Plaza, Foley Square

PHILADELPHIA, PENNSYLVANIA 19107
Jefferson Building
1015 Chestnut Street

PHOENIX, ARIZONA 85004
508 Greater Arizona Savings Bldg.
112 North Central

PITTSBURGH, PENNSYLVANIA 15222
431 Federal Building
1000 Liberty Avenue

PORTLAND, OREGON 97205
921 S.W. Washington St.

RENO, NEVADA 89502
2028 Federal Building
300 Booth Street

RICHMOND, VIRGINIA 23240
8010 Federal Building
400 North 8th Street

ST. LOUIS, MISSOURI 63103
2511 Federal Building
1520 Market Street

SALT LAKE CITY, UTAH 84111
1201 Federal Building
125 South State Street

SAN FRANCISCO, CALIFORNIA 94102
Federal Building, Box 36013
450 Golden Gate Avenue

SAN JUAN, PUERTO RICO 00902
Room 100, P.O. Bldg.

SAVANNAH, GEORGIA 31402
235 U.S. Courthouse and
Post Office Building
125-29 Bull Street

SEATTLE, WASHINGTON 98109
Room 706, Lake Union Bldg.
1700 West Lake Ave. North